

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**KENNETH HUMBERT,**

Plaintiff,

v.

**LIBERTY MUTUAL FIRE INSURANCE  
COMPANY,**

Defendant.

Case No. 3:19-cv-1740-SB

**ORDER**

**Michael H. Simon, District Judge.**

United States Magistrate Judge Stacie F. Beckerman issued Findings and Recommendation in this case on August 5, 2020. ECF 19. Judge Beckerman recommended that Plaintiff's motion for summary judgment be denied and Defendant's motion for summary judgment be granted.

Under the Federal Magistrates Act ("Act"), the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the Court review the magistrate judge's recommendations for "clear error on the face of the record."

Plaintiff timely filed an objection. ECF 21. Plaintiff argues that Judge Beckerman: (1) improperly discounted the legislative history when interpreting Oregon Revised Statutes ("ORS") § 742.542(2)(a) as it applies to Plaintiff's claim; (2) improperly concluded that the First Named Insured, MDU Resources Group, Inc., in compliance with ORS § 742.542(2)(a), lowered underinsured motorist policy limits for Defendant Liberty Mutual, another insured under the policy; and (3) failed to appreciate the inequity of a separate multimillion dollar corporation lowering policy limits on underinsured motorist coverage for employees of other multimillion dollar corporations, without considering conflicts of interest and other issues. The Court has reviewed *de novo* those portions of Judge Beckerman's Findings and Recommendation to which Plaintiff has objected, as well as Plaintiff's objections and Defendant's response. The Court agrees with Judge Beckerman's reasoning and ADOPTS those portions of the Findings and Recommendation.

For those portions of Judge Beckerman's Findings and Recommendation to which neither party has objected, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

The Court ADOPTS Judge Beckerman's Findings and Recommendation, ECF 19. Plaintiff's motion for summary judgment (ECF 12) is DENIED. Defendant's motion for summary judgment (ECF 9) is GRANTED.

**IT IS SO ORDERED.**

DATED this 28th day of August, 2020.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge